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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-sixth session

SUMMARY RECORD OF THE 673rd MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 10 January 2001 at 10 a.m.

Chairperson: Ms. OUEDRAOGO

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The meeting was called to order at 10.10 a.m.

STATEMENT BY MRS. ROBINSON, UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

1. Mrs. ROBINSON (United Nations High Commissioner for Human Rights) said that two major events of specific importance to the Committee and its work for child rights would take place in September 2001: the World Conference against Racism in Durban and the United Nations General Assembly Special Session on Children in New York.

2. While children were, all too often, targets of discrimination and exclusion, they had a considerable contribution to make to a shared vision of a non-discriminatory world because they were open-minded and free of prejudice. Every possible effort should be made to engage young people in both the preparation of and the follow-up to the World Conference, an issue that the Committee should raise with States and with UNICEF. She said she welcomed the participation of members of the Committee in the regional preparatory meetings for the Conference. The General Comment on article 29, paragraph 1, of the Convention, which the Committee intended to adopt during the current session, largely thanks to the funds made available under the Plan of Action on children's rights, would constitute an important contribution to the Conference.

3. The General Assembly Special Session on Children would provide a valuable opportunity to take stock of progress made over the previous decade and the challenges that remained. There, too, children should be involved, and she was aware of the Committee's active assistance in that respect. The Committee could rely on the support of the Office of the High Commissioner for Human Rights (OHCHR) and other partners to champion children's rights.

4. Referring to the campaign for universal ratification of international human rights treaties, she said that seven more States had recently signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, which brought the number of signatories to 75. Six States had recently signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which brought the number of signatories to 69. However, there had been no new ratifications of either protocol. The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which provided women in general and girls in particular with the possibility of submitting complaints concerning human rights violations to the Committee on the Elimination of All Forms of Discrimination against Women, had been ratified by 13 States parties and had entered into force on 22 December 2000.

5. Since the Committee's previous session, four additional States parties had formally confirmed their acceptance of the amendment to article 43, paragraph 3, of the Convention, which would increase membership of the Committee to 18. To date, 96 States had formally accepted the amendment, which required 24 more signatories before it could enter into force. The ILO Convention on the Worst Forms of Child Labour had been ratified by 52 States and had entered into force on 19 November 2000.

6. In the resolution on the rights of the child adopted at its fifty-fifth session, the General Assembly had taken note of the recommendations made by the Committee during its

discussion day on State violence against children, held on 22 September 2000, including the one that called for a comprehensive study on the issue of violence against children. Any comprehensive study would also have to take into account the recommendations that emerged from the Committee's next discussion day on the topic of violence against children at home and in schools.

7. The Plan of Action on children's rights was giving special attention to the issue of the administration of juvenile justice. Everything possible had to be done to improve the situation of minors detained by police, whether in police stations or in adult prisons. Within the framework of the Plan of Action, a national strategy development seminar on juvenile justice had been held in Uganda in November 2000, following a specific recommendation made by the Committee after consideration of the initial report of Uganda.

8. She drew attention to the report of her visit to the Middle East in November 2000 following the special session of the Commission on Human Rights on the situation in the occupied Palestinian territories. A sub-section of the report dealt with the desperate situation of children, which she had witnessed for herself in visits to hospitals and when talking to children in Gaza, Ramallah and elsewhere.

9. In 2000, her Office had launched its second annual appeal for funding, some of which would help to support the work of the treaty bodies, including the Committee on the Rights of the Child. Lastly, she paid tribute to the Committee's hard work and renewed her assurance of her Office's support.

10. The CHAIRPERSON expressed her thanks to the High Commissioner for her statement and for her support to the Committee.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Liechtenstein (CRC/C/61/Add.1; list of issues (CRC/C/Q/LIE/1); written replies of the Government of Liechtenstein to the questions in the list of issues (document without a symbol distributed in the meeting room in English only))

11. At the invitation of the Chairperson, Mr. Frick and Mr. Büchel took places at the Committee table.

12. Mr. FRICK (Liechtenstein) said that the written replies to the questions in the list of issues brought up to date the report of Liechtenstein, which had been written in 1998. The Principality was a very small country with just 33,000 inhabitants but it had one of the highest standards of living in the world and a flourishing economy. Liechtenstein was still a predominantly rural society, and unemployment was practically non-existent. The State was therefore able to finance a number of programmes as well as a high quality education system.

13. Mr. DOEK said he welcomed the decision to relax the conditions for acquiring Liechtenstein nationality and to consider withdrawing the reservation to article 7 of the Convention. Nevertheless, he understood that, under the new law, a child born in Liechtenstein whose parents were stateless would also be considered stateless, in violation of article 7.

14. Liechtenstein could also withdraw its reservation to article 10 of the Convention, under which it did not guarantee family reunification for certain types of foreign nationals, since article 10, paragraph 1, did not stipulate that family reunification should be an absolute right. According to the European Court of Human Rights interpretation of article 8 of the European Convention on Human Rights, the duty to respect private and family life did not mean that the right to family reunification was applicable in all circumstances.

15. In its written replies, the State party had referred to the opinion expressed by the Constitutional Court of Liechtenstein that international treaties had at least legislative rank, he wondered what would happen in the event of a conflict between the Convention and domestic legislation. Given that Liechtenstein did not have a particular mechanism for monitoring implementation of the Convention, could the delegation clarify whether the Ombudsman was responsible for doing so?

16. Lastly, he asked for details of Liechtenstein's "primary prevention" policy to combat juvenile crime and drug addiction, which focused on increasing children's and adolescents' self-confidence.

17. Ms. MOKHUANE wondered whether a survey had been done to find out how the general public perceived the rights of the child. What was the connection between the Youth Council, the Children's and Youth Service and the Youth Commissions? She said she was surprised that the Department of Social Affairs was responsible both for implementing the Convention and for monitoring its implementation.

18. Mr. FULCI wondered how long it would take to approve the legislation on easier access to Liechtenstein citizenship for stateless persons: was it a matter of months or of years? In its report, Liechtenstein stated that it was unable to change the domestic legal situation in order to permit withdrawal of its reservation under article 10 of the Convention, but believed that the reservation did not contradict the objective and purpose of the Convention. In the Committee's opinion, however, the reservation did indeed contradict the Convention insofar as it led to discrimination by establishing various categories of aliens. What would happen to refugees from Kosovo in Liechtenstein, for example: would they be able to settle in the country and, if so, could they obtain citizenship?

19. He asked whether the age of majority had been lowered from 20 to18, as in most other Western countries, despite the rejection of a proposal to do so in a previous referendum.

20. Ms. KARP said she understood that women in Liechtenstein had the right to vote in national elections but not in local elections. Local elections were no less important and she wondered how the State party justified that inequality. She also asked whether the State party fully implemented children's right to development or was considering how to implement it. Did it, for example, provide early developers or gifted children with special education suitable for their abilities?

21. She said she was surprised that the State party had not ratified such international instruments as the ILO Conventions and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. Given the country's strategic geographical

position and the number of tourists it welcomed, there were no doubt prostitutes there and she wondered therefore why the State party had not ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

22. She wondered whether the provisions of the Convention had yet been invoked in the courts or whether any courts had based judgements on those provisions. She also wondered whether persons under 18 were allowed to seek medical treatment without their parents' consent and, if so, whether that applied to all types of treatment or only certain types. Lastly, she wondered whether, as in other industrial countries, children found themselves under pressure, particularly with regard to academic success.

23. Ms. TIGERSTEDT-TÄHTELÄ said that the best interests of the child had to be taken into account not only in the area of family law, but at all levels of society. How did the State party define the best interests of the child, given that it was not defined in article 3 of the Convention? An article that was closely linked to article 3 was article 12 on respect for the views of the child. Children were heard in Liechtenstein and could take part in various youth committees and commissions. However, in the Committee's opinion, if children had the right to make their opinion known, decision-makers had a duty to take that opinion into account: did the State party apply that general principle or did it interpret article 12 in some other way?

24. Mr. RABAH asked the delegation to explain how independent the human rights Ombudsman could be given that it was a government appointment, and to give concrete examples of cases taken before the Ombudsman. He also mentioned the lack of information in the report on the NGOs' role in monitoring the implementation of the Convention and concerning the existence or otherwise of programmes to train judges, police officials and social workers in the provisions of the Convention.

25. Mr. DOEK said he thought the information given in paragraphs 53 to 55 of the report, on children's capacity at various ages, was too descriptive; he would have liked to have more analysis of the practical implementation of the various rules. What was meant by "on their own account", for example, when it stated that minors aged between 14 and 18 could on their own account enter into contractual obligations to provide services? Similarly, the report stated that at the age of 15 a minor became liable under the provisions of the law governing payment of damages, but it did not state who was liable if the minor was under 15. The legal age of sexual consent was in principle 14 but, in the case of homosexual acts, it was 18; he would like to know the reason for the difference.

26. According to paragraph 87 of the report, courts were not obliged to give effect to the views of the child; the State party should therefore consider introducing a provision to the effect that any court taking a decision contrary to the opinion expressed by the child should have to justify that decision in writing. Lastly, he asked whether paragraph 78 of the report meant that children had the right to bring a case before the court independently, without being represented by their parents, which he would warmly welcome.

The meeting was suspended at 11.30 a.m. and resumed at 11.40 a.m.

27. Mr. FRICK (Liechtenstein) said that, like all international instruments ratified by Liechtenstein, the Convention ranked higher than domestic legislation in the event of a conflict. Liechtenstein did not believe it was a good idea to join ILO, partly because there was already much work to do in implementing and monitoring the other international instruments to which it was party. Legislative elections would be taking place in February 2001 and the resulting Parliament would ratify two conventions in 2001 or 2002: the Convention Relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. The ratification procedure was relatively quick and took months rather than years.

28. There were plans to introduce a policy of family reunification for nationals of non-European Union States who held a work permit. Foreigners with a permanent residence permit could request Liechtenstein nationality provided they renounced their original nationality. The decision to grant nationality had ceased to be subject to a popular vote in 2000. Liechtenstein had taken in many refugees from Kosovo. Some of them had been given assistance, in some cases financial assistance, to return to their country. Others had applied for a residence permit. Refugee children took intensive German courses and were integrated into the ordinary school system.

29. The principle of the best interests of the child was not explicitly defined in the national legislation, but that did not mean Liechtenstein did not pay special attention to children's rights, as could be seen from the wide range of programmes that had been put in place to help children. Liechtenstein also hoped to involve children and adolescents in the revision of the law on minors in order to understand their concerns and hopes in that area.

30. School curricula and extra-curricular activities were designed to help children to develop their personality in a harmonious way. After primary school, children were guided into one of three branches, depending on their results and their level of maturity, and could switch from one to another at any time. Generally speaking, children were not subject to pressure to succeed nor to inordinate social pressures.

31. Mr. BÜCHEL (Liechtenstein) said that a campaign had been launched in 1998, mainly in the press, to make children more aware of their rights and to encourage all educational establishments to organize courses in prevention of abuse. All communities had social workers trained in youth-related questions. No ombudsman for children had yet been created but there were plans to establish such a position. The Department of Social Affairs was responsible for dealing with any cases in which children's rights were violated. Children experiencing difficulties at school or with their parents could see special therapists.

32. Ms. TIGERSTEDT-TÄHTELÄ said that the best interests of the child should be central to all States' plans and policies. Parliament should automatically consider what consequences a bill might have on children if adopted. The State party was not obliged to define the best interests of the child in its legislation, but it could at least give a partial definition in the various laws it adopted in the area of children's rights. It was a concept that could have as many interpretations as there were laws on the subject. The concept of "the well-being of the child", was used several times in the report and she wondered what that covered in Liechtenstein and how courts interpreted the principle.

33. Mr. BÜCHEL (Liechtenstein) said that the well-being of children had been defined in the General Civil Code even before Liechtenstein had acceded to the Convention. Liechtenstein's courts automatically took account of the best interests of the child in every decision affecting children. A 24-hour telephone helpline had been set up to take complaints from children who were subjected to ill-treatment. Children could also contact the Department of Social Affairs or other specialist institutions for information and advice.

34. Liechtenstein had not launched any special programme for the implementation of the Convention but conducted awareness campaigns in the media on issues relating to children's rights and organized regular training for social workers and other professionals dealing with children. As far as he knew, no training on the Convention had been provided for police officers.

35. Mr. FRICK (Liechtenstein) said that draft legislation was automatically communicated to NGOs and all professional groups involved for comment before being presented to Parliament. The Convention on the Rights of the Child had never been invoked in Liechtenstein's courts.

36. The age of majority and the voting age had been lowered to 18. With regard to legal capacity, according to the Civil Code, children could assume obligations from the age of 14, provided that such obligations did not exceed any income they derived from some minor gainful activity or the amount of their pocket money. If the minor was unable to meet those obligations, his parents or legal representative were liable for repayment of any ensuing debts.

37. Mr. BÜCHEL (Liechtenstein) said that minors could consult a doctor without their parents' consent, whatever their age. In cases of unwanted pregnancy in a minor, counsellors and the family doctor offered support and acted as intermediaries between the girl and her parents. The Department of Social Affairs knew of no critical situations that had gone unsolved.

38. Ms. KARP said that the Committee on the Elimination of Discrimination against Women believed that there could be a link between the high rate of births outside marriage and strict abortion laws. What was the true situation in Liechtenstein?

39. Mr. FRICK (Liechtenstein) said that, contrary to the conclusions of the Committee on the Elimination of Discrimination against Women, there was a very low number of births outside marriage in Liechtenstein. The Committee was probably referring to the number of one-parent families, which was continually increasing in Liechtenstein as a result of divorce. The children were raised by one or other of the parents, but they were not children born outside marriage to minors who had never been married.

40. Mr. DOEK asked whether, in cases of adoption or artificial insemination by donor, the child had the right to obtain information on his biological parents or the donor, including their identities.

41. With regard to the family environment and alternative care, Liechtenstein had set up a whole range of services for vulnerable families, but he would like to know whether such services

were accessible to foreign families, whether permanent residents or not. With regard to children deprived of a family environment or orphans, "young" children were apparently placed with foster families. What happened to older children?

42. Under the new marriage legislation, parents who so wished could share custody of a child in the event of divorce. Was that provision automatically applied or was some procedure needed? The new legislation also provided for divorce by mutual consent; was the old legislation on marriage applicable in other cases?

43. What steps were taken to protect children in cases of abuse or neglect? Anyone learning of such a case had an obligation to alert the Children's and Youth Service, with the exception of doctors, yet they were in the best position to detect cases of physical or moral violence against children. Could the delegation give more information on that subject?

44. In cases of adoption, the report said that the parents of an adoptive child who was of age had the right to a hearing. Did that mean that parents of adopted children who were minors did not have that right? Under the Nationality Act of 1996, the maximum age for acquisition of nationality through adoption had been raised from 7 to 10. If one or other of the adoptive parents was of Liechtenstein nationality, a foreign adopted child acquired that nationality through adoption as long as he had not reached his tenth birthday at the time of adoption, while an older child did not acquire it automatically and had to apply later. Was that not age-based discrimination? Why not grant nationality at the time of adoption, thereby avoiding serious problems such as statelessness? Adoptive children often lost their nationality of origin under adoption law in other countries.

45. Ms. MOKHUANE repeated her question as to the connection between the Youth Council, the Children's and Youth Service and the Youth Commissions. If all ministerial decisions were taken collegially, she wondered how inter-ministerial coordination was organized. The report stated that ministers met once a week to discuss various issues, including those relating to the rights of the child. Were those weekly meetings formal or informal? Was abortion authorized in cases of rape? Lastly, she wondered what measures were in place to ensure that the law prohibiting children aged under 16 from drinking alcoholic beverages was observed.

The meeting rose at 1 p.m.